



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 131028907-3999-01]

RIN 0648-XC954

Pacific Island Fisheries; 2014 Annual Catch Limits and Accountability Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Proposed specification; request for comments.

SUMMARY: NMFS proposes annual catch limits for 2014 Pacific Island bottomfish, crustacean, precious coral, and coral reef ecosystem fisheries, and accountability measures to correct or mitigate any overages of catch limits. The proposed catch limits and accountability measures support the long-term sustainability of fishery resources of the U.S. Pacific Islands.

DATES: Comments must be received by [insert date 15 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2013-0156, by either of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to

[www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0156](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0156),

click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- Mail: Send written comments to Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1601 Kapiolani Blvd, Suite 1110, Honolulu, HI 96814-4700.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous), and will accept attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats only.

NMFS prepared three environmental assessments that describe the potential impacts on the human environment that would result from the proposed annual catch limits and accountability measures. NMFS provided additional background information in the 2013 proposed and final specifications (78 FR 6798, January 31,

2013, 78 FR 15885, March 13, 2013, 78 FR 40875 (August 7, 2013).

Copies of these documents are available at [www.regulations.gov](http://www.regulations.gov).

FOR FURTHER INFORMATION CONTACT: Jarad Makaiau, NMFS PIR  
Sustainable Fisheries, 808-944-2108.

SUPPLEMENTARY INFORMATION: Fisheries in the U.S. Exclusive  
Economic Zone (EEZ, or Federal waters) around the U.S. Pacific  
Islands are managed under archipelagic fishery ecosystem plans  
(FEP) for American Samoa, Hawaii, the Pacific Remote Islands,  
and the Mariana Archipelago (covering Guam and the Commonwealth  
of the Northern Mariana Islands (CNMI)). A fifth FEP covers  
pelagic fisheries. The Western Pacific Fishery Management  
Council (Council) developed the FEPs, and NMFS implemented them  
under the authority of the Magnuson-Stevens Fishery Conservation  
and Management Act (Magnuson-Stevens Act).

Each FEP contains a process for the Council and NMFS to  
specify annual catch limits (ACLs) and accountability measures  
(AMS); that process is codified at 50 CFR 665.4 (76 FR 37285,  
June 27, 2011). The regulations require NMFS to specify, every  
fishing year, an ACL for each stock and stock complex of  
management unit species (MUS) included in an FEP, as recommended  
by the Council and considering the best available scientific,  
commercial, and other information about the fishery. If a  
fishery exceeds an ACL, the regulations require the Council to  
take action, which may include reducing the ACL for the

subsequent fishing year by the amount of the overage, or other appropriate action.

#### Annual Catch Limits

NMFS proposes to specify ACLs for bottomfish, crustacean, precious coral, and coral reef ecosystem fishery MUS in American Samoa, Guam, the CNMI, and Hawaii. NMFS based the proposed specifications on recommendations from the Council at its 157th meeting held on June 25-28, 2013. The Council recommended 101 ACLs: 22 in American Samoa, 27 in Guam, 22 in the CNMI, and 30 in Hawaii. This rule proposes the ACLs for the 2014 fishing year (January 1 through December 31, 2014, except for precious coral fisheries, which is July 1, 2013, through June 30, 2014). The proposed ACLs are identical to those that NMFS specified for these fisheries in 2013.

NMFS is not proposing ACLs for MUS that are currently subject to Federal fishing moratoria or prohibitions. These MUS include all species of gold coral (78 FR 32181, May 29, 2013), the three Hawaii seamount groundfish, that is, pelagic armorhead, alfonsin, and raftfish (75 FR 69015, November 10, 2010), and deep water precious corals at the Westpac Bed Refugia (75 FR 2198, January 14, 2010). The current prohibitions on fishing for these MUS serve as the functional equivalent of an ACL of zero.

Additionally, NMFS is not proposing ACLs for bottomfish, crustacean, precious coral, or coral reef ecosystem MUS identified in the Pacific Remote Islands Area (PRIA) FEP. On June 3, 2013, NMFS published a final rule implementing fishing requirements for the Pacific Remote Islands Marine National Monument (Monument), which include a prohibition on all fishing in the EEZ within 12 nm of emergent land, unless authorized by the U.S Fish and Wildlife Service (78 FR 32996, June 3, 2013). NMFS is not proposing ACLs for PRIA FEP bottomfish, crustacean, precious coral, or coral reef ecosystem fisheries because there is no suitable habitat for these fisheries beyond the 12-nm no-fishing zone, except at Kingman Reef, where fishing for these resources does not occur. Therefore, the current prohibitions on fishing serve as the functional equivalent of an ACL of zero. However, NMFS will continue to monitor authorized fishing within the Monument in consultation with the U.S. Fish and Wildlife Service, and may develop additional fishing requirements, including Monument-specific catch limits for species that may require them.

NMFS is also not proposing ACLs for pelagic MUS at this time, because NMFS previously determined that pelagic species are subject to international fishery agreements or have a life cycle of approximately one year and, therefore, are statutorily excepted from the ACL requirements.

# Proposed Annual Catch Limit Specifications

Table 1. American Samoa

<b>Fishery</b>	<b>Management Unit Species</b>	<b>Proposed ACL Specification (lb)</b>
Bottomfish	Bottomfish multi-species stock complex	101,000
Crustacean	Deepwater Shrimp	80,000
	Spiny Lobster	2,300
	Slipper Lobster	30
	Kona Crab	3,200
Precious Coral	Black Coral	790
	Precious Corals in the American Samoa Exploratory Area	2,205
Coral Reef Ecosystem	Acanthuridae - surgeonfish	19,516
	Lutjanidae - snappers	18,839
	Selar crumenophthalmus - atule or bigeye scad	8,396
	Mollusks - turbo snail; octopus; giant clams	16,694
	Carangidae - jacks	9,490
	Lethrinidae - emperors	7,350
	Scaridae - parrotfish	8,145
	Serranidae - groupers	5,600
	Holocentridae - squirrelfish	2,585
	Mugilidae - mullets	2,857
	Crustaceans - crabs	2,248
	Bolbometopon muricatum - bumphead parrotfish	235
	Cheilinus undulatus - Humphead (Napoleon) wrasse	1,743
	Carcharhinidae - Reef Sharks	1,309
	All Other CREMUS combined	18,910

Table 2. Mariana Archipelago - Guam

<b>Fishery</b>	<b>Management Unit Species</b>	<b>Proposed ACL Specification (lb)</b>
Bottomfish	Bottomfish multi-species stock complex	66,800
Crustaceans	Deepwater Shrimp	48,488

	Spiny Lobster	2,700
	Slipper Lobster	20
	Kona Crab	1,900
Precious Coral	Black Coral	700
	Precious Corals in the Guam Exploratory Area	2,205
Cora Reef Ecosystem	Acanthuridae - surgeonfish	70,702
	Carangidae - jacks	45,3771
	<u>Selar crumenophthalmus</u> - atulai or bigeye scad	56,514
	Lethrinidae - emperors	38,720
	Scaridae - parrotfish	28,649
	Mullidae - goatfish	25,367
	Mollusks - turbo snail; octopus; giant clams	21,941
	Siganidae - rabbitfish	26,120
	Lutjanidae - snappers	17,726
	Serranidae - groupers	17,958
	Mugilidae - mullets	15,032
	Kyphosidae - chubs/rudderfish	13,247
	Crustaceans - crabs	5,523
	Holocentridae - squirrelfish	8,300
	Algae	5,329
	Labridae - wrasses	5,195
	<u>Bolbometopon muricatum</u> - bumphead parrotfish	797 (CNMI and Guam combined)
	<u>Cheilinus undulatus</u> - Humphead (Napoleon) wrasse	1,960
	Carcharhinidae - Reef Sharks	6,942
	All Other CREMUS combined	83,214)

Table 3. Mariana Archipelago - CNMI

Fishery	Management Unit Species	Proposed ACL Specification (lb)
Bottomfish	Bottomfish multi-species stock complex	228,000
Crustacean	Deepwater Shrimp	275,570
	Spiny Lobster	5,500
	Slipper Lobster	60
	Kona Crab	6,300

Precious Coral	Black Coral	2,100
	Precious Corals in the CNMI Exploratory Area	2,205
Coral Reef Ecosystem	Lethrinidae - emperors	27,466
	Carangidae - jacks	21,512
	Acanthuridae - surgeonfish	6,884
	<u>Selar crumenophthalmus</u> - atulai or bigeye scad	7,459
	Serranidae - groupers	5,519
	Lutjanidae - snappers	3,905
	Mullidae - goatfish	3,670
	Scaridae - parrotfish	3,784
	Mollusks - turbo snail; octopus; giant clams	4,446
	Mugilidae - mullets	3,308
	Siganidae - rabbitfish	2,537
	<u>Bolbometopon muricatum</u> - bumphead parrotfish	797 (CNMI and Guam combined)
	<u>Cheilinus undulatus</u> - Humphead (Napoleon) wrasse	2,009
	Carcharhinidae - Reef Sharks	5,600
	All Other CREMUS combined	9,820

Table 4. Hawaii

<b>Fishery</b>	<b>Management Unit Species</b>	<b>Proposed ACL Specification (lb)</b>
Bottomfish	Non-Deep 7 Bottomfish	140,000
Crustacean	Deepwater Shrimp	250,773
	Spiny Lobster	10,000
	Slipper Lobster	280
	Kona Crab	27,600
Precious Coral	Auau Channel Black Coral	5,512
	Makapuu Bed - Pink Coral	2,205
	Makapuu Bed - Bamboo Coral	551
	180 Fathom Bank - Pink Coral	489
	180 Fathom Bank - Bamboo Coral	123
	Brooks Bank - Pink Coral	979
	Brooks Bank - Bamboo Coral	245
	Kaena Point Bed - Pink Coral	148



	Kaena Point Bed - Bamboo Coral	37
	Keahole Bed - Pink Coral	148
	Keahole Bed - Bamboo Coral	37
	Precious Corals in the Hawaii Exploratory Area	2,205
Coral Reef Ecosystem	<i>Selar crumenophthalmus</i> - akule or bigeye scad	651,292
	<i>Decapterus macarellus</i> - opelu or mackerel scad	393,563
	Carangidae - jacks	193,423
	Mullidae - goatfish	125,813
	Acanthuridae - surgeonfish	80,545
	Lutjanidae - snappers	65,102
	Holocentridae - squirrelfish	44,122
	Mugilidae - mullets	41,112
	Mollusks - turbo snails; octopus	28,765
	Scaridae - parrotfish	33,326
	Crustaceans - crabs	20,686
	Carcharhinidae - Reef Sharks	111,566
	All Other CREMUS combined	142,282

## Accountability Measures

Each year, NMFS and local resource management agencies in American Samoa, Guam, the CNMI, and Hawaii collect information about MUS catches and apply them toward the appropriate ACLs. Pursuant to 50 CFR 665.4, when the available information indicates that a fishery is projected to reach an ACL for a stock or stock complex, NMFS must notify permit holders that fishing for that stock or stock complex will be restricted in Federal waters on a specified date. The restriction serves as the AM to prevent an ACL from being exceeded, and may include, closing the fishery, closing specific areas, changing to bag

limits, or restricting effort. However, local resource management agencies do not have the personnel or resources to process catch data in near-real time, so fisheries statistics are generally not available to NMFS until at least six months after agencies collect and analyze the data. Although the State of Hawaii has the capability to monitor and track the catch of seven preferentially-targeted bottomfish species in near-real time, (78 FR 59626, September 27, 2013), these capabilities do not exist for other Hawaii bottomfish, crustacean, precious coral, and coral reef ecosystem fisheries, or for fisheries in American Samoa, Guam, and the CNMI. Additionally, Federal logbook and reporting from fisheries in Federal waters is not sufficient to accurately monitor and track catches towards the proposed ACL specifications. This is because most fishing for bottomfish, crustacean, precious coral, and coral reef ecosystem MUS occurs in state waters, generally 0-3 nm from shore. For these reasons, NMFS proposes to specify the Council's recommended AM, which requires the Council to conduct a post-season accounting of the annual catch for each stock and stock complex of MUS after the end of the fishing year. If an ACL is exceeded, the Council would take action in accordance with 50 CFR 600.310(g), which may include a recommendation that NMFS reduce the ACL for the subsequent fishing year by the amount of the overage, or other appropriate measures.

NMFS will consider public comments on the proposed ACLs and AMs and will announce the final specifications in the Federal Register. NMFS must receive any comments by [insert date 15 days after date of publication in the FEDERAL REGISTER], not postmarked or otherwise transmitted by that date. Regardless of the final ACL specifications and AMs, all other management measures will continue to apply in the fisheries.

#### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator for Fisheries has determined that this proposed specification is consistent with the applicable FEPs, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

#### Certification of Finding of No Significant Impact on Substantial Number of Small Entities

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that these proposed specifications, if adopted, would not have a significant economic impact on a substantial number of small entities. A description of the proposed action, why it is being considered, and the legal basis for it are contained in the preamble to this proposed specification.

NMFS based the proposed specifications on recommendations from the Council at its 157th meeting held on June 25-28, 2013. The Council recommended 101 ACLs: 22 in American Samoa, 27 in Guam, 22 in the Commonwealth of the Northern Mariana Islands (CNMI), and 30 in Hawaii. NMFS would specify the ACLs for the 2014 fishing year, which begins on January 1 and ends on December 31, except for precious coral fisheries, which are July 1, 2013, through June 30, 2014. NMFS would specify ACLs for fisheries in which there are no participants. These include certain crustacean fisheries (deepwater shrimp and Kona crab) and all precious coral fisheries outside Hawaii.

On June 20, 2013, the Small Business Administration (SBA) issued a final rule revising the small business size standards for several industries effective July 22, 2013 (78 FR 37398). The rule increased the size standard for Finfish Fishing from \$4.0 to 19.0 million, Shellfish Fishing from \$4.0 to 5.0 million, and Other Marine Fishing from \$4.0 to 7.0 million. Based on available information, NMFS has determined that all vessels federally permitted under the FEPs for American Samoa, the Marianas Archipelago (Guam and CNMI) and Hawaii are small entities under the SBA definition of a small entity, i.e., they are engaged in the business of fish harvesting, are independently owned or operated, are not dominant in their field of operation, and have annual gross receipts not in excess of

\$19 million. Therefore, there would be no disproportionate economic impacts between large and small entities. Furthermore, there would be no disproportionate economic impacts among the universe of vessels based on gear, home port, or vessel length.

Pursuant to the Regulatory Flexibility Act, NMFS has reviewed the analyses prepared for this action in light of the new size standards. Under the former, lower size standards, all vessels subject to this action were considered small entities, and they all would continue to be considered small under the new standards. NMFS does not think that the new size standards affect analyses prepared for this action and solicits public comments on the analyses in light of the new size standards.

Even though this proposed action would apply to a substantial number of vessels, the implementation of this action should not result in significant adverse economic impact to individual vessels. For active fisheries, the ACLs are generally in line with or greater than the current annual yields. The Council and NMFS are not considering in-season closures in any of the fisheries to which these ACLs apply, because fishery management agencies are not able to track catch relative to the ACLs during the fishing year. As a result, fishermen would be able to fish throughout the entire year. In addition, the ACLs, as proposed, would not change the gear types, areas fished, effort, or participation of the fishery during 2014 fishing

year. A post-season review of the catch data would be required to determine whether any fishery exceeded its ACL. If an ACL is exceeded, the Council and NMFS would take action to correct the operational issue that caused the ACL overage. NMFS and the Council would evaluate the environmental and socio-economic impacts of future actions, such as changes to future ACLs or AMs, after the required data are available.

At its 157th meeting in June 2013, the Council determined that ACLs were exceeded for the Hawaii non-Deep 7 bottomfish stock complex, and for 11 coral reef ecosystem species groups - two in Guam, four in CNMI, and five in Hawaii. However, the Council determined that the overages of the ACLs in Hawaii were the result of improved catch reporting compliance, while in Guam and CNMI, exceeding the ACLs was the result of over-estimates of catch. Given these data collection methodologies, and given the conservative method used to specify the ACLs, the Council concluded that the overages were not likely to have had an impact on stock sustainability or result in overfishing. The Council, therefore, decided that reducing the 2014 ACLs was not warranted. For these reasons, the Council recommended that NMFS specify the same ACLs and AMs in 2014 as it did in 2013.

The proposed rule does not duplicate, overlap, or conflict with other Federal rules and is not expected to have significant impact on small entities (as discussed above), organizations, or

government jurisdictions. The proposed rule also will not place a substantial number of small entities, or any segment of small entities, at a significant competitive disadvantage to large entities. As such, an initial regulatory flexibility analysis is not required and none has been prepared. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This action is exempt from review under the procedures of E.O. 12866.

Authority: 16 U.S.C. 1801 et seq.

Dated: December 17, 2013

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Alan D. Risenhoover,  
Director, Office of Sustainable Fisheries,  
performing the functions and duties of the  
Deputy Assistant Administrator for Regulatory Programs,  
National Marine Fisheries Service.

[FR Doc. 2013-30312 Filed 12/19/2013 at 8:45 am;  
Publication Date: 12/20/2013]